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## SENATE CONCURRENT RESOLUTION

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REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO STUDY ISSUES  
RELATING TO SELF-GOVERNANCE AND DISPUTE RESOLUTION UNDER  
HAWAII'S CURRENT CONDOMINIUM LAW.

1 WHEREAS, in 1961, Hawaii became the first state to enact  
2 law enabling the creation of condominiums; and  
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4 WHEREAS, throughout the years, the Legislature has made  
5 many efforts to address a multitude of problems relating to  
6 condominiums, including the manner in which they are governed  
7 and providing for alternative dispute resolution mechanisms; and  
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9 WHEREAS, in 1988, the Legislature adopted Senate Concurrent  
10 Resolution No. 100, S.D. 1, H.D. 1, which requested the  
11 Legislative Reference Bureau to conduct an interim study of  
12 various problems concerning the governance of condominiums and,  
13 if appropriate, to propose feasible means and methods of dealing  
14 more effectively with those issues; and  
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16 WHEREAS, in its 1989 study, entitled *Condominium*  
17 *Governance-an Examination of Some Issues*, the Legislative  
18 Reference Bureau focused on the issues of informed boards and  
19 owners, access to information and decision-making concerning  
20 condominium management and operations, and financial issues  
21 relating to condominium management and operations; and  
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23 WHEREAS, in Act 213, Session Laws of Hawaii 2000, upon  
24 finding that Hawaii's condominium property regimes law  
25 micromanaged condominium associations and was unorganized,  
26 inconsistent, and obsolete in some areas, the Legislature  
27 directed the Real Estate Commission to conduct a review of the  
28 law and to make recommendations for recodification; and  
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1 WHEREAS, based upon the Real Estate Commission's *Final*  
2 *Report to the Legislature, Recodification of Chapter 514A,*  
3 *Hawaii Revised Statutes (Condominium Property Regimes)*, the  
4 Legislature enacted chapter 514B, Hawaii Revised Statutes, known  
5 as the Condominium Property Act; and

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7 WHEREAS, one of the fundamental principles of Hawaii's  
8 current condominium law is self-governance by the condominium  
9 community and minimal government involvement; and

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11 WHEREAS, there are conflicting reports regarding the  
12 efficacy of Hawaii's current self-governance model for  
13 condominiums; and

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15 WHEREAS, the Real Estate Commission reports that, for the  
16 majority of condominium unit owners, the State's current self-  
17 governance model is working as intended; and

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19 WHEREAS, conversely, the Real Estate Commission also  
20 receives reports from condominium unit owners that the State's  
21 current self-governance model has resulted in: an inability to  
22 elect board members, amend favorable declaration and bylaw  
23 provisions, change the condominium managing agent, and mediate  
24 disputes; and increasing expenses for unit owners, including  
25 attorneys' fees to resolve conflicts with the board or other  
26 unit owners; and

27  
28 WHEREAS, in senior living condominiums, where persons must  
29 be a minimum age in order to purchase a unit, governance issues  
30 arise when board members become infirm or experience diminished  
31 mental capacity; and

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33 WHEREAS, these unresolved issues over governance and  
34 dispute resolution mechanisms result in diminishing the quality  
35 of life for condominium residents and may contribute to higher  
36 maintenance costs to unit owners; now, therefore,

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38 BE IT RESOLVED by the Senate of the Twenty-eighth  
39 Legislature of the State of Hawaii, Regular Session of 2015, the  
40 House of Representatives concurring, that the Legislative  
41 Reference Bureau is requested to study issues relating to self-



1 governance and dispute resolution under Hawaii's current  
2 condominium law; and

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4 BE IT FURTHER RESOLVED that the Legislative Reference  
5 Bureau, to the extent feasible, is requested to:

- 6  
7 (1) Examine governance models utilized by select states  
8 that have a large number of condominium units,  
9 including Florida and California;  
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11 (2) Examine past efforts to address problems relating to  
12 Hawaii's condominium law;  
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14 (3) Identify governance provisions of Hawaii's current  
15 condominium law that are effective and those that are  
16 not effective, particularly with respect to senior  
17 living condominiums or condominiums located in urban  
18 areas; and  
19  
20 (4) Examine the adequacy of the dissemination of  
21 information concerning condominium management and  
22 operations to condominium unit owners; and  
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24 BE IT FURTHER RESOLVED that the Legislative Reference  
25 Bureau is requested to recommend amendments to Hawaii's  
26 condominium law to address those provisions identified as  
27 ineffective; and  
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29 BE IT FURTHER RESOLVED that the Real Estate Commission is  
30 requested to provide cooperation and any assistance and  
31 information the Legislative Reference Bureau may require to  
32 complete the study in the timeframe provided; and  
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34 BE IT FURTHER RESOLVED that the Legislative Reference  
35 Bureau is requested to submit a report of its findings and  
36 recommendations, including any proposed legislation, to the  
37 Legislature no later than twenty days prior to the convening of  
38 the Regular Session of 2016; and  
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40 BE IT FURTHER RESOLVED that certified copies of this  
41 Concurrent Resolution be transmitted to the Director of the



- 1 Legislative Reference Bureau and the Chairperson of the Real
- 2 Estate Commission.
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